

Exhibit A
2nd Declaration of Paul Wright

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PRISON LEGAL NEWS, a non-profit
Washington corporation §
§
Plaintiff §
v. §
§
GARY LINDSEY, individually and §
in his official capacity as the Chief Deputy, §
Office of Detentions for Dallas County, §
EDGAR McMILLAN, individually, §
UNKNOWN DALLAS COUNTY JAIL §
GUARDS, individually and in their official §
capacities, SHERIFF LUPE VALDEZ, §
individually and in her official capacity as §
the Sheriff of Dallas County, and DALLAS §
COUNTY §
§
Defendants. §

CIVIL ACTION NO.
07-367 (JS)

SECOND DECLARATION OF PAUL WRIGHT

1. "My name is Paul Wright. I am the editor of *Prison Legal News*, and its legal representative.
2. Prison Legal News publishes a monthly 48-page legal information magazine dealing with the rights of incarcerated individuals. The publication provides information about court access, disciplinary hearings, prison conditions, excessive force, mail censorship, jail litigation, visitation, telephones, religious freedom, prison rape, and the death penalty, among other things. It has been published continuously since 1990. Prison Legal News has approximately 7,000 subscribers nationwide. Prison Legal News is a non-profit corporation. Its purpose is to educate inmates and the public about the civil rights of incarcerated individuals.
3. Prison Legal News is unable to accomplish its purpose when it cannot communicate with inmates in prisons and jails. Prison Legal News cannot communicate with the thousands of people incarcerated in the Dallas County Jail.
4. *Prison Legal News* had eleven subscribers incarcerated in the jail between March 17, 2006 to the present. A total of 42 issues were censored between March 17, 2006 and today. The following subscribers did not receive the following copies of *Prison Legal News* because it was censored by the Dallas County Jail:
 - a. Charles B. Maloney: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - b. Courtney D. Bailey: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);

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1/4

- c. Darron Peterson: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - d. David Wilson: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - e. Jamie Nieto: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - f. Joseph Shields: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - g. Marcus J. Hall: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - h. Reggie Reedy: January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail);
 - i. Alfredo Bernal: September 2007 (by bulk rate mail);
 - j. Billy Allen: May 2006 (by bulk rate mail), June 2006 (by bulk rate mail), July 2006 (by bulk rate mail), August 2006 (by bulk rate mail), September 2006 (by bulk rate mail); and,
 - k. Lakeith Sharif: April 2006 (by bulk rate mail), May 2006 (by bulk rate mail), June 2006 (by bulk rate mail), July 2006 (by bulk rate mail), August 2006 (by bulk rate mail), September 2006 (by bulk rate mail), October 2006 (by bulk rate mail), November 2006 (by bulk rate mail), December 2006 (by bulk rate mail), January 2007 (by First Class mail), February 2007 (by bulk rate mail), March 2007 (by bulk rate mail).
5. Issues of *Prison Legal News* are typically sent to subscribers via bulk mail. Issues sent bulk mail are placed in the mail directly by the printer to subscribers on Prison Legal News's mailing list, which is kept in the regular course of business. Prison Legal News's mailing list for subscribers currently incarcerated in the Dallas County Jail is attached as Exhibit A. When subscribers are sent an issue via First Class mail, I place them in the mail myself. I personally mailed the above subscribers the above indicated issues that were sent via First Class mail.
6. Prison Legal News claims compensatory damages for injuries to its First Amendment and Due Process rights for each issue of *Prison Legal News* inmates in the jail did not receive. The censorship of each issue prevents Prison Legal News from recruiting new subscribers, prevents it from disseminating its political views and legal assistance to inmates in the Dallas County Jail, and prevents it from encouraging inmates in the Dallas County Jail to support its positions on various issues related to the rights of incarcerated people. Prison Legal News seeks compensatory damages of \$200.00 per issue for violations of its civil rights, for a total of \$8,400.00 in compensatory damages for violations of its civil rights.
7. Readership surveys of *Prison Legal News* readers indicate each copy mailed to a prisoner is read by an average of eight (8) incarcerated people. Therefore, Prison Legal News, on average, lost the readership of 336 people because of the censorship in the Dallas County Jail.
8. Moreover, because of the nature of the publication ban, Prison Legal News loses the opportunity to communicate with all general population inmates in the Dallas County Jail. General population inmates cannot receive any publication, including *Prison Legal News*,

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2/4

when Defendants enforce the ban.

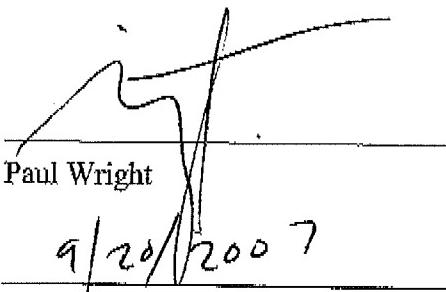
9. Prison Legal News received no notice issues sent bulk rate mail were not being delivered to inmates. Prison Legal News received no information about an opportunity to respond for issues sent First Class mail. The Dallas County Jail did not provide Prison Legal News with any opportunity to respond and prevent this censorship. Prison Legal News believes that had it been informed these issues were not being delivered, and had it been given an opportunity to respond, that the censorship would have been prevented because Prison Legal News would have prevailed. The lack of Due Process is not a mere formality—it directly resulted in a violation of Prison Legal News's substantive free speech rights.
10. Prison Legal News claims compensatory damages for injuries to its business reputation. When an inmate does not receive the copy of *Prison Legal News* he or she paid for, they frequently blame Prison Legal News. This is especially true in situations, such as in the Dallas County Jail, where inmates do not receive notice that the issue is being censored. Prison Legal News suffered specific injury to its business reputation because of the violations of its due process rights. If Prison Legal News had received notice the issues were not being delivered, it could have communicated with its subscribers in order to minimize damage done to its business reputation. Prison Legal News also lost business opportunities because it lost sales to other inmates in the Dallas County Jail. Because its subscribers did not have the ability to possess *Prison Legal News*, they could not share it with other inmates who might wish to become subscribers. Prison Legal News thus lost future subscription sales because of the censorship by the Dallas County Jail. Prison Legal News seeks compensatory damages of \$500.00 for injuries to its business reputation.
11. Prison Legal News claims compensatory damages for lost staff time dealing with the censorship in the Dallas County Jail. Responding to censorship prevents Prison Legal News's staff from performing their other duties and pursuing other opportunities to further its mission of protecting human rights.
 - a. I, personally, have spent approximately sixty (60) hours responding to the censorship in this case. I have worked to determine the publication was actually being censored, recruit counsel, review pleadings and discovery, and confer with counsel. I am a salaried employee, but my wage is approximately \$25.00 per hour. Prison Legal News claims compensatory damages in the amount of \$1,500.00 for my lost staff time.
 - b. Don Miniken is Prison Legal News's executive director. He has spent approximately ten (10) hours responding to the censorship in this case. He has checked the subscriber database, reviewed files and correspondence with inmates, and assisted in responding to discovery. Mr. Minicken is a salaried employee, but his hourly wage is approximately \$25.00. Prison Legal News claims compensatory damages in the amount of \$250.00 for his lost staff time.
 - c. Alex Friedman is Prison Legal News's associate editor. He has spent approximately five (5) hours responding to the censorship in this case. Mr. Friedman has conferred with counsel, made open records requests to obtain Dallas County Jail policies, and reviewed documents received from Dallas County. Mr. Friedman is a salaried employee, but his hourly wage is approximately \$20.00 per hour. Prison Legal News claims compensatory damages in the amount of \$100.00 for his lost staff time.
 - d. Susan Schwartzkopf is Prison Legal News's outreach coordinator. She has spent approximately five (5) hours responding to the censorship in this case. Ms. Schwartzkopf has conferred with counsel and sent out correspondence in this case. Ms. Schwartzkopf

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3/4

is a salaried employee, but her hourly wage is approximately \$20.00 per hour. Prison Legal News claims compensatory damages in the amount of \$100.00 for her lost staff time.

12. Prison Legal News claims nominal damages in the amount of \$10.00 per issue for each issue of *Prison Legal News* that was not delivered to an inmate, and \$10.00 per issue for each issue that was censored without giving Prison Legal News notice of the censorship and an opportunity to respond. Prison Legal News claims a total of \$840.00 in nominal damages.
13. Prison Legal News claims total compensatory and nominal damages in the amount of \$11,690.00.
14. Prison Legal News claims punitive damages in the amount of \$100,000.00 for the violations of its civil rights at issue in this litigation. Prison Legal News also seeks an award of attorneys' fees and costs.
15. I, Paul Wright, under the pains and penalties of perjury under the laws of the United States of America, swear I am capable of making this affidavit and that the foregoing statement is true and correct to the best of my knowledge."



Paul Wright
9/20/2007
Date

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